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May 30, 2025

Hon. Peggy Kuo
U.S. Magistrate Judge
U.S. District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Wang v. Chung Fat Supermarket Inc. et al.*, Case No. 1:25-cv-02236-PK

Dear Judge Kuo:

We represent Defendants Chung Fat Supermarket Inc., Yue Mei Jiang, Xue Fen Jiang, and Xinyu Jiang (“Company Defendants”) in this action. We write pursuant to Your Honor’s Individual Rules VI.B to request that a District Judge be assigned so that Company Defendants may move to dismiss the action for failure to prosecute.

This action was initiated in the Supreme Court of the State of New York, Queens County on March 6, 2025, by Plaintiff filing a Summons with Notice. Company Defendants removed the action to this Court on April 22, 2025. To date, Plaintiff still has not filed a Complaint, nor has Plaintiff served the Summons upon any of the Company Defendants.

Filing a complaint is a fundamental requirement to prosecute a civil action. In federal court, an action cannot be commenced without filing a complaint. Fed. R. Civ. P. 3. In New York state court, a summons may be served without a complaint, but Plaintiff must serve a complaint within 20 days after defendants have made an appearance or made a written demand for the complaint, and courts may dismiss actions for failure to serve a complaint. NY CPLR 3012(b).

Under any metric, Plaintiff has failed to timely file a complaint. The undersigned entered an appearance for the Company Defendants in the state court action on April 22, 2025, when filing their notice of removal. Company Defendants also wrote to Plaintiff’s counsel on April 22, May 5, May 12, May 20, and May 22 to request that a complaint be filed, but Plaintiff’s counsel has not done so. On May 27, Defendants were able to reach Plaintiff’s counsel by phone, and he stated that he had been physically unwell for several days and requested until June 10 to file the Complaint. The following day, Defendants advised that they did not agree to this timeline, which would have the Complaint filed 7 weeks after the case was removed and almost 14 weeks after the Summons was filed. Defendants demanded that Plaintiff file the Complaint by 5pm today, which he has failed to do.

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For these reasons, Company Defendants seek to move to dismiss the action for failure to prosecute. Because this would be a dispositive motion and all parties have not consented to Your Honor's jurisdiction, Company Defendants request that a District Judge be assigned to this case.

We thank the Court for its time and consideration of this request.

Sincerely,
/s/ Kevin K. Yam
Kevin K. Yam